

House Bill 572

By: Representatives Beasley-Teague of the 65th, Brooks of the 63rd, Mitchell of the 88th, Mangham of the 94th, and Stephenson of the 92nd

A BILL TO BE ENTITLED
AN ACT

To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to require the State of Georgia and certain employers who contract with or receive financial assistance from the state or a state agency to pay its employees a living wage; to provide definitions; to provide the method of computing a living wage; to provide for notice requirements; to provide for recordkeeping; to prohibit employer retaliation; to authorize the Commissioner of Labor to enforce the provisions of this chapter; to authorize the Commissioner of Labor to adopt applicable rules; to provide for claims; to provide for penalties; to provide for related matters; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, is amended by inserting immediately following Chapter 4 a new Chapter 4A to read as follows:

"CHAPTER 4A

34-4A-1.

As used in this chapter, the term:

(1) 'Commissioner' means the Commissioner of Labor.

(2) 'Department' means the Department of Labor.

(3) 'Employee' means an individual who performs work on a full-time, part-time, temporary, or seasonal basis, and includes employees as defined in the common law, independent contractors, and contingent or contracted workers, including persons made available to work through the services of a staffing, temporary, or employment agency, who are actually working:

1 (A) For the State of Georgia; or

2 (B) In direct furtherance of a service contract that is covered under paragraph (8) of
3 this Code section.

4 (4) 'Employer' means either:

5 (A) The State of Georgia;

6 (B) A person that contracts with the State of Georgia through a state agency to provide
7 services valued at \$10,000.00 or more;

8 (C) A person that subcontracts for delivery of services to the State of Georgia through
9 a state agency under a contract covered by subparagraph (B) of this paragraph; or

10 (D) A person that receives economic development incentives from the state or a state
11 agency in an aggregate sum of \$50,000.00 or more in the form of any loan, grant, tax
12 incentive or abatement, tax increment financing, bond financing, subsidy, or other form
13 of financial assistance.

14 (5) 'Fair market rent' means the most recent fair market rent established by the United
15 States Department of Housing and Urban Development for a two-bedroom dwelling in
16 a market area.

17 (6) 'Living wage' means the rate established by the department as the minimum hourly
18 wage rate that shall be paid to an employee by an employer pursuant to the formula set
19 forth in Code Section 34-4A-3 of this chapter.

20 (7) 'Market area' means the area designated by the United States Department of Housing
21 and Urban Development in which the employer's office is located at which an employee
22 works or is based.

23 (8) 'Person' means one or more of the following or their agents, employees, and
24 representatives: individuals, corporations, partnerships, joint ventures, associations, labor
25 organizations, educational institutions, mutual companies, joint-stock companies, trusts,
26 unincorporated organizations, trustees, trustees in bankruptcies, receivers, fiduciaries, and
27 all other entities recognized by law by this state.

28 (9) 'Service contract' means a contract with the state or a state agency primarily for the
29 furnishing of services to or for the state or a state agency for an aggregate annual sum of
30 \$10,000.00 or more.

31 (10) 'State' means:

32 (A) The State of Georgia;

33 (B) Any state agency as defined in paragraph (11) of this Code section; and

34 (C) Any elected official of the State of Georgia.

1 (11) 'State agency' means:

2 (A) A board, commission, department, authority, office, or other agency in the
3 executive branch of state government that is created by the Constitution or a statute of
4 this state, including an institution of higher education as defined by Title 20;

5 (B) The General Assembly or an agency of the General Assembly; or

6 (C) The Supreme Court of Georgia, the Court of Appeals of Georgia and other courts,
7 a state judicial agency, or the State Bar of Georgia.

8 34-4A-2.

9 (a) An employer shall pay an employee no less than the living wage for the market area
10 computed under Code Section 34-4A-3.

11 (b) The Commissioner shall calculate the living wage on an annual basis and shall publish
12 the wage rate on July 1 of each year.

13 (c) Each contract for services entered into by a state agency under Chapter 5 of Title 50
14 shall include a living wage clause. The living wage clause shall require the contracting
15 employer to pay all employees working under the contract at least a living wage as
16 published by the Commissioner and shall require the contracting employer to include a
17 similar clause in every subcontract for services.

18 34-4A-3.

19 The living wage for a market area is computed by:

20 (1) Multiplying the fair market rent for the market area by three to obtain the gross
21 monthly income;

22 (2) Multiplying the gross monthly income by 12 to obtain the gross yearly income; and

23 (3) Dividing the gross yearly income by 2,080 to obtain the hourly wage.

24 34-4A-4.

25 (a) An employer shall post a notice as prescribed by the Commissioner by rule regarding
26 the living wage required by this chapter. The notice must be posted at conspicuous places
27 at each of the employer's places of business.

28 (b) The notice must include the living wage rate and the telephone number of the
29 Commissioner for information about the living wage requirement and procedures for filing
30 a claim.

34-4A-5.

An employer shall keep full and accurate payroll records for each employee subject to this chapter and shall report that information periodically to the Commissioner as prescribed by department regulation.

34-4A-6.

(a) The Commissioner shall adopt rules for monitoring compliance by employers with this chapter.

(b) The Commissioner may require reports, conduct investigations, and take other action it considers necessary to implement this chapter.

(c) The Commissioner shall file a report annually with the General Assembly regarding the operation of the living wage requirement.

34-4A-7.

An employer may not retaliate or discriminate against an employee who, under this chapter:

(1) Makes or files a complaint; or

(2) Testifies, assists, or participates in any manner in any investigation, proceeding, or hearing.

34-4A-8.

(a) A claim may be filed with the Commissioner by an employee or former employee who:

(1) Is not paid a living wage as required by this chapter; or

(2) Is retaliated or discriminated against in violation of this chapter.

(b) A claim must be filed under this Code section not later than the first anniversary of:

(1) The violation giving rise to the claim; or

(2) The date the employee or former employee knows, or has reason to know, of the violation giving rise to the claim.

(c) The Commissioner shall investigate a claim filed under this Code section, make a preliminary determination on whether a violation has occurred, and recommend a penalty.

(d) The Commissioner shall mail notice of the preliminary determination to the employer and the complainant at each party's last known address, as reflected by department records.

(e) Either party may request a hearing to contest the preliminary determination according to department rules.

34-4A-9.

(a) The Commissioner may assess an administrative penalty against an employer determined to be in violation of this chapter.

(b) In addition to an administrative penalty under subsection (a) of this Code section, the Commissioner may by order take one or more of the following actions:

(1) Withhold payment or money due the employer in an amount sufficient to pay the wages of the employee or former employee;

(2) Terminate, cancel, or suspend the service contract or financial assistance agreement, in whole or in part; or

(3) Disqualify the employer from contracting with or receiving financial assistance from the state or a state agency, or from working on a service contract, for a period of up to three years.

34-4A-10.

(a) A party may seek judicial review of the Commissioner's order.

(b) An employee or former employee who files suit under subsection (a) of this Code section may be awarded reinstatement, back pay, damages, attorney's fees, court costs, and other equitable relief as may be appropriate.

34-4A-11.

Nothing in this chapter shall be construed as prohibiting or conflicting with any other obligation or law, including any collective bargaining agreement, that mandates the provision of higher wages, benefits, or protections to employees. No part of this chapter shall be construed as applying to any employee where such coverage would be preempted by federal or state law.

34-4A-12.

The Commissioner of Labor shall administer and enforce this chapter and may make rules and regulations for such administration."

SECTION 2.

The provisions of this Act shall be applicable only to a service contract or financial assistance agreement made or renewed on or after July 1, 2007. A service contract or financial assistance agreement made or renewed before that date is governed by the law in effect at the time the service contract or financial assistance agreement was made or renewed, and the former law is continued in effect for that purpose.

1 **SECTION 3.**

2 This Act shall become effective on July 1, 2007.

3 **SECTION 4.**

4 All laws and parts of laws in conflict with this Act are repealed.